

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 556

BY EDUCATION COMMITTEE

AN ACT

RELATING TO SCHOOL DISTRICTS; AMENDING SECTION 33-513, IDAHO CODE, TO PROVIDE CRITERIA FOR EVALUATIONS OF SUPERINTENDENTS, PRINCIPALS AND CERTIFIED TEACHERS CONDUCTED AT CERTAIN TIMES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-513, Idaho Code, be, and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district, including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) calendar days from the date the contract is delivered, in which to sign the contract and return it to the board. If the board of trustees does not make a determination as to how long the person has to sign and return the contract, the default time limit shall be twenty-one (21) calendar days after the contract is delivered to the person. Delivery of a contract may be made only in person or by certified mail, return receipt requested or electronically, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail or electronically, delivery must be acknowledged by the return of the certified mail receipt or return electronic receipt from the person to whom the contract was sent. If the delivery is made electronically, with return electronic receipt, and the district has not received a return of a signed contract and has not received an electronic read receipt from the employee, the district shall then resend the original electronically delivered contract to the employee via certified mail, return receipt requested, and provide such individual with a new date for contract return. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time or if no designated period of time is set by the board, the default time, the board or its designee may declare the position vacant.

The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. It shall not contract

1 to require any teacher to make up time spent in attending any meeting called  
 2 by the state board of education or by the state superintendent of public in-  
 3 struction; nor while attending regularly scheduled official meetings of the  
 4 state teachers' association.

5 2. For all evaluations of superintendents, principals and certified  
 6 teachers conducted after June 30, 2015, at least thirty-five percent (35%)  
 7 of the evaluation shall be based on objective measures of growth in student  
 8 achievement, as determined by the local board of trustees; at least five  
 9 percent (5%) shall include a combination of parent and student input; and  
 10 at least twenty-five percent (25%) shall be based on professional practice.  
 11 For evaluations conducted after June 30, 2017, at least forty percent (40%)  
 12 of the evaluation shall be based on objective measures of growth in student  
 13 achievement, as determined by the local board of trustees; at least ten  
 14 percent (10%) shall include a combination of parent and student input; and  
 15 at least twenty-five percent (25%) shall be based on professional practice.  
 16 For evaluations conducted after June 30, 2019, at least fifty percent (50%)  
 17 of the evaluation shall be based on objective measures of growth in student  
 18 achievement, as determined by the local board of trustees; at least fifteen  
 19 percent (15%) shall include a combination of parent and student input; and at  
 20 least twenty-five percent (25%) shall be based on professional practice.

21 3. In the case of school districts other than elementary school dis-  
 22 tricts, to employ a superintendent of schools for a term not to exceed three  
 23 (3) years, who shall be the executive officer of the board of trustees with  
 24 such powers and duties as the board may prescribe. The superintendent shall  
 25 also act as the authorized representative of the district whenever such is  
 26 required, unless some other person shall be named by the board of trustees to  
 27 act as its authorized representative. The board of trustees shall conduct  
 28 an annual, written formal evaluation of the work of the superintendent of  
 29 the district. The evaluation shall indicate the strengths and weaknesses of  
 30 the superintendent's job performance in the year immediately preceding the  
 31 evaluation and areas where improvement in the superintendent's job perfor-  
 32 mance, in the view of the board of trustees, is called for.

33 34. To employ through written contract principals who shall hold a  
 34 valid certificate appropriate to the position for which they are employed,  
 35 who shall supervise the operation and management of the school in accordance  
 36 with the policies established by the board of trustees and who shall be under  
 37 the supervision of the superintendent.

38 45. To employ assistant superintendents and principals for a term  
 39 not to exceed two (2) years. Service performed under such contract shall  
 40 be included in meeting the provisions of section 33-515, Idaho Code, as a  
 41 teacher and persons eligible for a renewable contract as a teacher shall  
 42 retain such eligibility. The superintendent, the superintendent's de-  
 43 signee, or in a school district that does not employ a superintendent, the  
 44 board of trustees, shall conduct an annual, written evaluation of each such  
 45 employee's performance.

46 56. To suspend, grant leave of absence, place on probation or discharge  
 47 certificated professional personnel for a material violation of any lawful  
 48 rules or regulations of the board of trustees or of the state board of edu-  
 49 cation, or for any conduct which could constitute grounds for revocation of  
 50 a teaching certificate. Any certificated professional employee, except the

1 superintendent, may be discharged during a contract term under the following  
2 procedures:

3 (a) The superintendent or any other duly authorized administrative of-  
4 ficer of the school district may recommend the discharge of any certifi-  
5 cated employee by filing with the board of trustees written notice spec-  
6 ifying the alleged reasons for discharge.

7 (b) Upon receipt of such notice the board, acting through its duly  
8 authorized administrative official, shall give the affected employee  
9 written notice of the allegations and the recommendation of discharge,  
10 along with written notice of a hearing before the board prior to any de-  
11 termination by the board of the truth of the allegations.

12 (c) The hearing shall be scheduled to take place not less than six (6)  
13 days nor more than twenty-one (21) days after receipt of the notice by  
14 the employee. The date provided for the hearing may be changed by mutual  
15 consent.

16 (d) The hearing shall be public unless the employee requests in writing  
17 that it be in executive session.

18 (e) All testimony at the hearing shall be given under oath or affirma-  
19 tion. Any member of the board, or the clerk of the board, may administer  
20 oaths to witnesses or affirmations by witnesses.

21 (f) The employee may be represented by legal counsel and/or by a repre-  
22 sentative of a local or state teachers association.

23 (g) The chairman of the board or the designee of the chairman shall con-  
24 duct the hearing.

25 (h) The board shall cause an electronic record of the hearing to be made  
26 or shall employ a competent reporter to take stenographic or steno-  
27 type notes of all the testimony at the hearing. A transcript of the hearing  
28 shall be provided at cost by the board upon request of the employee.

29 (i) At the hearing, the superintendent or other duly authorized admin-  
30 istrative officer shall present evidence to substantiate the allega-  
31 tions contained in such notice.

32 (j) The employee may produce evidence to refute the allegations. Any  
33 witness presented by the superintendent or by the employee shall be sub-  
34 ject to cross-examination. The board may also examine witnesses and be  
35 represented by counsel.

36 (k) The affected employee may file written briefs and arguments with  
37 the board within three (3) days after the close of the hearing or such  
38 other time as may be agreed upon by the affected employee and the board.

39 (l) Within fifteen (15) days following the close of the hearing, the  
40 board shall determine and, acting through its duly authorized adminis-  
41 trative official, shall notify the employee in writing whether the evi-  
42 dence presented at the hearing established the truth of the allegations  
43 and whether the employee is to be retained, immediately discharged, or  
44 discharged upon termination of the current contract.

45 (m) If the employee appeals the decision of the board of trustees to the  
46 district court, the district court may affirm the board's decision or  
47 set it aside and remand the matter to the board of trustees upon the fol-  
48 lowing grounds and shall not set the same aside for any other grounds:

49 (i) That the findings of fact are not based upon any substantial,  
50 competent evidence;

(ii) That the board of trustees has acted without jurisdiction or in excess of its authority; or

(iii) That the findings by the board of trustees as a matter of law do not support the decision.

(n) The determination of the board of trustees shall be affirmed unless the court finds that the action of the board of trustees was:

(i) In violation of constitutional or statutory provisions;

(ii) In excess of the statutory authority of the board;

(iii) Made upon unlawful procedure; or

(iv) Arbitrary, capricious or an abuse of discretion.

67. To grant an employee's request for voluntary leave of absence. The board of trustees may delegate ongoing authority to grant an employee's request for voluntary leave of absence to the district's superintendent or other designee. Upon the superintendent or designee's granting of an employee's request for voluntary leave of absence, the board shall ratify or nullify the action at the next regularly scheduled board meeting.

78. To delegate to the superintendent or other designee the ongoing authority to place any employee on a period of involuntary leave of absence should the superintendent or designee believe that such action is in the best interest of the district. Upon the superintendent or designee's action to place an employee on a period of involuntary leave of absence, the board shall ratify or nullify the action of the superintendent or designee at the next regularly scheduled meeting of the board or at a special meeting of the board should the next regularly scheduled meeting of the board not be within a period of twenty-one (21) days from the date of the action.

(a) Where there is a criminal court order preventing the employee from being in the presence of minors or students, preventing the employee from being in the presence of any other adult individual employed at the school or detaining the employee in prison or jail, the employee's involuntary leave of absence shall be without pay due to the employee's inability to perform the essential functions of the employee's position. Without such a condition or situation, the involuntary leave of absence shall be with pay.

(i) During the period of involuntary leave of absence without pay, the salary of the employee will be maintained in a district managed account. Should the employee return to the district for active employment subsequent to the removal or dismissal of the court order, acquittal or adjudication of innocence, the district shall remit the salary funds, less the cost incurred by the district for the substitute hired to replace the employee. Further, should the employee return to the district under the provisions established in this subsection, the district shall arrange to have the employee credited with the public employee retirement system of Idaho (PERSI) for the employee's time away from work during the period of leave of absence.

(ii) During the period of involuntary leave of absence, the district shall continue to pay the district's portion of monthly costs associated with employee health insurance benefits. The assumption of this payment by the district shall not alter the employee's financial obligations, if any, under the policy.

1 (b) Should there be dual court orders preventing more than one (1) em-  
2 ployee from being in the presence of one (1) or more other employees, all  
3 employees subject to the court order shall be excluded from the school  
4 pursuant to subsection 78. (a) of this section.

5 (c) If the period of involuntary leave of absence is due to the dis-  
6 trict's need to conduct an investigation into the conduct of the em-  
7 ployee, and there are no related criminal investigation(s) and/or crim-  
8 inal charges of any nature pending, the administration shall complete  
9 its investigation within a period of sixty (60) working days. On or  
10 before the sixtieth working day, the administrative leave shall either  
11 cease and the employee shall be returned to his position of employment  
12 or the administration shall advance a personnel recommendation to the  
13 board of trustees. If a recommendation is advanced, the involuntary  
14 leave of absence shall continue until such time as the district board  
15 has made its decision in regard to the personnel recommendation with  
16 such decision effectively concluding the involuntary leave of absence.  
17 If a related criminal investigation is occurring and/or criminal  
18 charges are pending, the district shall not be bound to any limitation  
19 as to the duration of involuntary leave of absence. The timelines es-  
20 tablished in this section may be waived or modified by mutual agreement.